



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 64

[CG Docket No. 02-278; FCC 14-32]

Cargo Airlines Association Petition for Expedited Declaratory Ruling

AGENCY: Federal Communications Commission.

ACTION: Exemption.

SUMMARY: In this document, the Commission grants a request to exempt package delivery notifications from the Telephone Consumer Protection Act's (TCPA) restrictions on autodialed and prerecorded calls and messages to wireless telephone numbers, as long as consumers are not charged and may easily opt out of future messages if they wish, among other pro-consumer conditions. Congress gave the Commission the authority to exclude from this prohibition calls and texts that are not charged to the called party, subject to conditions necessary to protect the called party's privacy rights. This action is necessary to allow wireless consumers to receive package delivery notifications that will be welcome both as a convenience and as a way to guard against package theft.

DATES: Effective **[INSERT DATE UPON PUBLICATION IN FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Kristi Lemoine, Consumer Policy Division, Consumer and Governmental Affairs Bureau, at (202) 418-2467 (voice), or e-mail kristi.lemoine@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, document FCC 14-32, adopted March 27, 2014 and released on March 27, 2014, in CG Docket No. 02-278. An Erratum to document FCC 14-32, was released on May 12, 2014. The full text of these documents and copies of any subsequently filed documents in this matter will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. Document FCC 14-32 can also be downloaded in Word or Portable

Document Format (“PDF”) at <http://www.fcc.gov/document/cargo-airline-petition-declaratory-ruling>. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

FINAL PAPERWORK REDUCTION ACT OF 1995 ANALYSIS

Document FCC 14-32 does not contain new or modified information collection requirements subject to the Paperwork Reduction Act (PRA) of 1995, Pub. L. 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198, see 44 U.S.C. 3506(c)(4).

CONGRESSIONAL REVIEW ACT

The Commission will not send a copy of FCC 14-32 pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)A), because the Commission adopted no rules therein. Rather than adopting rules, the Commission exercised its statutory authority to grant an exemption by Order. See 47 U.S.C. 227(b)(2)(C).

SYNOPSIS

The Commission grants the Cargo Airline Association’s request to exempt, from the TCPA’s restrictions, its proposed free-to-end-user package delivery notifications to consumers’ wireless phones, subject to certain conditions. The TCPA prohibits making, without the prior express consent of the called party, any non-emergency call using an automatic telephone dialing system or an artificial or prerecorded voice to, among other recipients, any wireless telephone number. Specifically, the Commission adopts the following conditions applicable to each delivery notification (voice call or text message) made utilizing the exemption the Commission grants:

- 1) a notification must be sent, if at all, only to the telephone number for the package recipient;
- 2) notifications must identify the name of the delivery company and include contact information for the delivery company;
- 3) notifications must not include any telemarketing, solicitation, or advertising content;

- 4) voice call and text message notifications must be concise, generally one minute or less in length for voice calls and one message of 160 characters or less in length for text messages;
- 5) delivery companies shall send only one notification (whether by voice call or text message) per package, except that one additional notification may be sent to a consumer for each of the following two attempts to obtain the recipient's signature when the signatory was not available to sign for the package on the previous delivery attempt;
- 6) delivery companies relying on this exemption must offer parties the ability to opt out of receiving future delivery notification calls and messages and must honor the opt-out requests within a reasonable time from the date such request is made, not to exceed thirty days; and,
- 7) each notification must include information on how to opt out of future delivery notifications; voice call notifications that could be answered by a live person must include an automated, interactive voice- and/or key press-activated opt-out mechanism that enables the called person to make an opt-out request prior to terminating the call; voice call notifications that could be answered by an answering machine or voice mail service must include a toll-free number that the consumer can call to opt out of future package delivery notifications; text notifications must include the ability for the recipient to opt out by replying "STOP."

The Commission's grant of the requested exemption, to the extent indicated herein, is limited to package delivery notifications to consumers' wireless phones either by voice or text and only applies so long as those calls are not charged to the consumer recipient, including not being counted against the consumer's plan limits on minutes or texts, and must comply with the conditions the Commission adopts. In addition to the limited context within which package delivery companies will be making autodialed or prerecorded package delivery notification calls to consumers' wireless numbers, the conditions adopted herein to protect consumers' privacy interests are critical to the Commission's exercise of the statutory authority to grant an exemption. Taken as a whole, the Commission finds that these conditions simultaneously fulfill the statutory

obligation to protect consumers' privacy interest in avoiding unwanted calls while allowing package delivery companies a reasonable time in which to implement opt-out elections. The Commission clarifies that, as required by the statute, except in an emergency or with the prior express consent of the consumer, any party who sends an autodialed or prerecorded package delivery notification to a wireless number that is not in full conformance with the requirements the Commission adopts today may not take advantage of this exemption and risks violating the TCPA.

ORDERING CLAUSE

Pursuant to sections 4(i), 4(j), and 227 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 227, and §§ 1.2 and 64.1200 of the Commission's rules, 47 CFR 1.2, 64.1200, that the Petition for Expedited Declaratory Ruling filed by Cargo Airline Association on August 17, 2012 IS GRANTED IN PART and IS OTHERWISE DISMISSED to the extent indicated herein.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene H. Dortch,
Secretary.

[FR Doc. 2015-06709 Filed: 3/24/2015 08:45 am; Publication Date: 3/25/2015]